IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE

APPEAL NO.593 OF 2005
IN
COMPANY APPLICATION NO.423 OF 2004
IN
COMPANY PETITION NO.137 OF 1992

Ashford Investments & Trading Co(P) Ltd. Appellants
vs.
Alliance Finstock Ltd. & anr. Respondents

Mr.D.H.Mehta i/b.M/s.Divya Shah & Associates for the appellants.

Mr.P.K.Samdani with Mr.Vineet Naik i/b.Ms.Saira Mirzankar for the respondent no.1.

Mr.P.G.Rao, Deputy Official Liquidator present.

CORAM : R. M. LODHA &
J.P. DEVADHAR,JJ.

DATED : 26th July 2005

P.C.

Heard Mr.D.H.Mehta, the learned counsel for the appellants and Mr.P.K.Samdani, the learned counsel for the first respondent.

2. From the impugned order, we find that the appellants revised its offer by quoting Rs.1,54,00,000/- plus Rs.41,000/- for furniture and fixtures. When the matter was taken up by the learned Judge in his chamber, the learned counsel for the respondent n.1 made an offer in the sum of Rs.1,64,00,000/- plus Rs.41,000/- for

furniture and fixtures. In so far as the present appellants are concerned, the learned counsel appearing on its behalf made a statement before the learned Judge that they are not willing to increase their offer over and above the offer made by the first respondent.

3. Mr.D.H.Mehta, the learned counsel for the appellants sought to contend that the offer to the tune of Rs.1,54,00,000/- made by the present appellants was in addition to the payment of outstanding dues of Rs.20,00,000/- to the society whereas the offer made by the first respondent to the tune of Rs.1,64,00,000/- was not in addition to the payment of outstanding bills of the society.

4. Mr.P.K.Samdani, the learned counsel for the first respondent, made a categorical statement before us that the offer made by the first respondent in the sum of Rs.1,64,00,000/- plus Rs.41,000/- for furniture and fixtures is in addition to the payment of the outstanding bills of the society. It is, thus, clear that the offer made by the first respondent in the sum of Rs.1,64,00,000/- plus Rs.41,000/- for furniture and fixtures is in addition to the outstanding amount of about Rs.20 lacs in the society and that amount the first respondent shall have to pay.

5. In the facts and circumstances that we have noticed merely because the appeal being Appeal No.691/2004 filed by the society has been admitted, this appeal does not deserve to be admitted.

6. The appeal is dismissed in limine.

(R.M. LODHA,J.)

(J.P. DEVADHAR,J.)